

BILL LOCKYER, Attorney General
of the State of California
E. A. JONES III, State Bar No. 71375
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2543
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DERRICK WAYNE RABURN, PT
827 Village Square South
Palm Springs, CA 92262

Physical Therapy License No. PT 20241

Respondent.

Case No. 1D 2003 63516

OAH No. L2006010733

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical
Therapy Board of California. He brought this action solely in his official capacity and is represented
in this matter by Bill Lockyer, Attorney General of the State of California, by E. A. Jones III, Deputy
Attorney General.

2. Respondent Derrick Wayne Raburn, PT (Respondent) is represented in this
proceeding by attorney Jay A. Hieatt, whose address is Hall, Hieatt & Connely, LLP, 1319 Marsh
Street, Second Floor, San Luis Obispo, CA 93401.

3. On or about September 28, 1994, the Physical Therapy Board of California
issued Physical Therapy License No. PT 20241 to Derrick Wayne Raburn, PT (Respondent). The
License was in full force and effect at all times relevant to the charges brought in Accusation No. 1D

1 2003 63516 and will expire on May 31, 2006, unless renewed.

2 JURISDICTION

3 4. Accusation No. 1D 2003 63516 was filed before the Physical Therapy Board
4 of California (Board), Department of Consumer Affairs, and is currently pending against Respondent.
5 The Accusation and all other statutorily required documents were properly served on Respondent on
6 December 27, 2005. Respondent timely filed his Notice of Defense contesting the Accusation. A copy
7 of Accusation No. 1D 2003 63516 is attached as exhibit A and incorporated herein by reference.

8 ADVISEMENT AND WAIVERS

9 5. Respondent has carefully read, fully discussed with counsel, and understands
10 the charges and allegations in Accusation No. 1D 2003 63516. Respondent has also carefully read,
11 fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
12 Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the right
14 to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
15 his own expense; the right to confront and cross-examine the witnesses against him; the right to present
16 evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the
17 attendance of witnesses and the production of documents; the right to reconsideration and court review
18 of an adverse decision; and all other rights accorded by the California Administrative Procedure Act
19 and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each
21 and every right set forth above.

22 CULPABILITY

23 8. Respondent understands and agrees that the charges and allegations in
24 Accusation No. 1D 2003 63516, if proven at a hearing, constitute cause for imposing discipline upon
25 his Physical Therapy License.

26 9. For the purpose of resolving the Accusation without the expense and uncertainty
27 of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis
28 for the charges in the Accusation, and that Respondent hereby gives up his right to contest those

1 charges.

2 10. Respondent agrees that his Physical Therapy License is subject to discipline and
3 he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order
4 below.

5 CIRCUMSTANCES IN MITIGATION

6 11. Respondent Derrick Wayne Raburn, PT has never been the subject of any
7 disciplinary action. He is admitting responsibility at an early stage in the proceedings. Respondent has
8 closed the clinic at which the alleged violations occurred and is now working for a licensed physical
9 therapist in good standing with the Board.

10 RESERVATION

11 12. The admissions made by Respondent herein are only for the purposes of this
12 proceeding, or any other proceedings in which the Physical Therapy Board of California or other
13 professional licensing agency is involved, and shall not be admissible in any other criminal or civil
14 proceeding.

15 CONTINGENCY

16 13. This stipulation shall be subject to approval by the Physical Therapy Board of
17 California. Respondent understands and agrees that counsel for Complainant and the staff of the
18 Physical Therapy Board of California may communicate directly with the Board regarding this
19 stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing
20 the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
21 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to
22 adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
23 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
24 the parties, and the Board shall not be disqualified from further action by having considered this matter.

25 14. The parties understand and agree that facsimile copies of this Stipulated
26 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force
27 and effect as the originals.

28 15. In consideration of the foregoing admissions and stipulations, the parties agree

that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physical Therapy License No. PT 20241 issued to Respondent Derrick Wayne Raburn, PT is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions.

1. RESTRICTION OF PRACTICE - SUPERVISION REQUIRED Respondent, for the first two years of probation, shall only practice physical therapy under the supervision of a physical therapist who holds a valid unrestricted license, and who is responsible for the care rendered.

2. RESTRICTION OF PRACTICE - HOME CARE The respondent shall not provide physical therapy services in a patient's home.

3. RESTRICTION OF PRACTICE - SOLO PRACTICE The respondent shall be prohibited from engaging in the solo practice of physical therapy during the probationary term.

4. RESTRICTION OF PRACTICE - PROHIBITION OF SELF EMPLOYMENT OR OWNERSHIP Respondent shall not be the sole proprietor or partner in the ownership of any business that offers physical therapy services. Respondent shall not be a board member or an officer or have a majority interest in any corporation that offers or provides physical therapy services.

5. RESTRICTION OF PRACTICE - PROHIBITION OF DIRECT BILLING OF THIRD-PARTY PAYERS Respondent shall not have final approval over any physical therapy billings submitted to any third-party payers in any employment.

6. RESTRICTION OF PRACTICE - NO EMPLOYMENT OR SUPERVISION OF PHYSICAL THERAPIST LICENSE APPLICANTS, PHYSICAL THERAPIST ASSISTANT LICENSE APPLICANTS Respondent shall not supervise any physical therapist license applicants, or physical therapist assistant applicants during the entire period of probation. Respondent shall terminate any such supervisory relationship in existence on the effective date of this probation.

7. RESTRICTION OF PRACTICE - NO EMPLOYMENT OR SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS Respondent shall not supervise any physical therapist assistants during the entire period of probation. Respondent shall terminate any such supervisory

relationship in existence on the effective date of this Decision.

8. RESTRICTION OF PRACTICE - NO EMPLOYMENT OR SUPERVISION OF PHYSICAL THERAPY AIDES Respondent shall not supervise any physical therapy aides during the entire period of probation. Respondent shall terminate any such supervisory relationship in existence on the effective date of this Decision.

9. PROBATION MONITORING COSTS Respondent shall reimburse all costs incurred by the Board, up to \$300.00 per quarter, for probation monitoring during the entire period of probation. Respondent will be billed at least quarterly and shall be only responsible for reimbursing probation monitoring costs up to \$300.00 per quarter. Such costs shall be made payable to the Physical Therapy Board of California. Failure to make ordered reimbursement within 60 days of the billing shall constitute a violation of the probation order.

10. COST RECOVERY The respondent is ordered to reimburse the Board the actual and reasonable investigative and prosecutorial costs incurred by the Board in the amount of \$9941.00. Said costs shall be reduced, however, and the remainder forgiven, if Respondent pays \$5,000.00 within 60 days of the effective date of the Decision. In the event Respondent fails to pay within sixty (60) days of this, the full amount of costs (\$9941.00) shall be immediately due and payable. Failure to pay the ordered reimbursement, or any agreed upon payment, may constitute a violation of the probation order. The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board. If Respondent is in default of his responsibility to reimburse the Board, the Board will collect cost recovery from the Franchise Tax Board, the Internal Revenue Service or by any other means of attachment of earned wages legally available to the Board. Failure to fulfill the obligation could also result in attachment to the Department of Motor Vehicle registrations and/or license renewals.

11. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, and statutes and regulations governing the practice, inspections and reporting, of physical therapy in California and remain in full compliance with any court ordered criminal probation.

12. COMPLIANCE WITH ORDERS OF A COURT The respondent shall be in compliance with any valid order of a court. Being found in contempt of any court order is a violation

1 of probation.

2 13. COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF
3 RESTITUTION Respondent shall not violate any terms and conditions of criminal probation, if any,
4 and shall be in compliance with any restitution ordered, payments or other orders.

5 14. QUARTERLY REPORTS Respondent shall submit quarterly declarations
6 under penalty of perjury on forms provided by the Board, stating whether there has been compliance
7 with all the conditions of probation.

8 15. PROBATION MONITORING PROGRAM COMPLIANCE Respondent shall
9 comply with the Board's probation monitoring program.

10 16. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall
11 appear in person for interviews with the Board, or its designee, upon request at various intervals.

12 17. NOTIFICATION OF PROBATIONER STATUS TO EMPLOYERS The
13 respondent shall notify all present or future employers of the reason for and the terms and conditions
14 of the probation by providing a copy of the Accusation and Stipulated Settlement to the employer, and
15 submit written employer confirmation of receipt to the Board within 10 days. The notification(s) shall
16 include the name, address and phone number of the employer, and, if different, the name, address and
17 phone number of the work location.

18 18. NOTIFICATION OF CHANGE OF NAME OR ADDRESS The respondent
19 shall notify the Board, in writing, of any and all name and/or address changes within ten (10) days.

20 19. RESTRICTION OF PRACTICE - TEMPORARY SERVICES AGENCIES
21 The respondent shall not work for a temporary services agency or registry during the first two years of
22 probation.

23 20. RESTRICTION OF PRACTICE - CLINICAL INSTRUCTOR OF PHYSICAL
24 THERAPY STUDENT INTERNS OR FOREIGN EDUCATED PHYSICAL THERAPIST LICENSE
25 APPLICANTS PROHIBITED Respondent shall not supervise any physical therapy student interns
26 or foreign educated physical therapist license applicants during the entire period of probation.
27 Respondent shall terminate any such supervisory relationship in existence on the effective date of this
28 probation.

1 21. PROHIBITED USE OF ALIASES Respondent may not use aliases and shall
2 be prohibited from using any name which is not his legally-recognized name or based upon a legal
3 change of name.

4 22. INTERMITTENT WORK If the respondent works less than 192 hours as a
5 physical therapist or a physical therapist assistant in the physical therapy profession in a period of three
6 months, those months shall not be counted toward satisfaction of the probationary period. The
7 respondent shall notify the Board if he works less than 192 hours in a three month period.

8 23. TOLLING OF PROBATION The period of probation shall run only during
9 the time respondent is practicing or performing physical therapy within California. If, during
10 probation, respondent does not practice or perform within California, respondent is required to
11 immediately notify the probation monitor in writing of the date that respondent is practicing or
12 performing physical therapy out of state, and the date of return, if any. Practicing or performing
13 physical therapy by the respondent in California prior to notification to the Board of the respondent's
14 return will not be credited toward completion of probation. Any order for payment of cost recovery
15 shall remain in effect whether or not probation is tolled.

16 24. VIOLATION OF PROBATION If respondent violates probation in any
17 respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke
18 probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke
19 probation is filed against respondent during probation, the Board shall have continuing jurisdiction
20 until the matter is final, and the period of probation shall be extended until the matter is final.

21 25. REQUEST TO SURRENDER LICENSE DUE TO RETIREMENT, HEALTH
22 OR OTHER REASONS Following the effective date of this probation, if respondent ceases practicing
23 or performing physical therapy due to retirement, health or other reasons or is otherwise unable to
24 satisfy the terms and conditions of probation, respondent may request to surrender his license to the
25 Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion
26 whether to grant the request or to take any other action deemed appropriate and reasonable under the
27 circumstances. Upon formal acceptance of the tendered license, the terms and conditions of probation
28 shall be tolled until such time as the license is no longer renewable, the respondent makes application

1 for the renewal of the tendered license or makes application for a new license.

2 26. COMPLETION OF PROBATION Upon successful completion of probation,
3 respondent's license shall be fully restored.

4 27. CALIFORNIA LAW EXAMINATION - WRITTEN EXAM ON THE LAWS
5 AND REGULATIONS GOVERNING THE PRACTICE OR PERFORMANCE OF PHYSICAL
6 THERAPY Within 120 days of the effective date of this decision, respondent shall take and pass the
7 Board's written examination on the laws and regulations governing the practice of physical therapy in
8 California. If respondent fails to pass the examination, respondent shall be suspended from the practice
9 of physical therapy until a repeat examination has been successfully passed.

10 28. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE ON
11 PROBATION It is not contrary to the public interest for the respondent to practice and/or perform
12 physical therapy under the probationary conditions specified in the disciplinary order. Accordingly,
13 it is not the intent of the Board that this order, the fact that the respondent has been disciplined, or that
14 the respondent is on probation, shall be used as the sole basis for any third party payer to remove
15 respondent from any list of approved providers.

16 ACCEPTANCE

17 I have carefully read the above Stipulated Settlement and Disciplinary Order and have
18 fully discussed it with my attorney, Jay A. Hieatt. I understand the stipulation and the effect it will have
19 on my Physical Therapy License. I enter into this Stipulated Settlement and Disciplinary Order
20 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
21 Physical Therapy Board of California.

22 DATED: April 26, 2006.

23
24
25 Original Signed By:
26 DERRICK WAYNE RABURN, PT
Respondent

27 I have read and fully discussed with Respondent Derrick Wayne Raburn, PT the terms
28

1 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

2 I approve its form and content.

3 DATED: April 26, 2006.

6 Original Signed By:

JAY A. HEATT

Attorney for Respondent

9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Physical Therapy Board of California of the Department of
12 Consumer Affairs.

13 DATED: April 26, 2006.

14 BILL LOCKYER, Attorney General
15 of the State of California

16 Original Signed By:

E. A. JONES III

Deputy Attorney General

Attorneys for Complainant

20 Raburn Stipulated Decision.wpd

Exhibit A

Accusation No. 1D 2003 63516

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DERRICK WAYNE RABURN, PT
827 Village Square South
Palm Springs, CA 92262

Physical Therapy License No. PT 20241

Respondent.

Case No. 1D 2003 63516

OAH No. L2006010733

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 18, 2006.

It is so ORDERED July 19, 2006.

Original Signed By: Donald A. Chu, PhD, PT, President
FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS